

**STIPULATION AND ORDER TO
EXTEND DISCOVERY PLAN AND
SCHEDULING ORDER DEADLINES
(FOURTH REQUEST) [ECF No. 47]**

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Plaintiffs Lance Downes-Covington, Soldadera Sanchez, Robert O'Brien, Emily Driscoll, Alison Kenady, Tenisha Martin, and Gabriela Molina ("Plaintiffs"), by and through their attorneys of record, Margaret A. McLetchie and Dayvid Figler with the law firm of McLetchie Law and Defendants, the Las Vegas Metropolitan Police Department ("LVMPD"), Sheriff Joseph Lombardo, Lieutenant Kurt McKenzie, and Officer Tabatha Dickson (collectively ("LVMPD Defendants")), by and through their attorneys of record, Craig R. Anderson, Esq. and Jackie V. Nichols, Esq., with the law firm of Marquis Aurbach Coffing, hereby stipulate and agree to extend the Discovery Plan and Scheduling Order deadlines an additional ninety (90) days. This Stipulation is being entered in good faith and not for purposes of delay. This is the fourth request for an extension in this matter.

I. STATUS OF DISCOVERY.

A. PLAINTIFFS' DISCOVERY.

1. Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated January 20, 2021;

2. Plaintiff Lance Downes-Covington's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

3. Plaintiff Soldadera Sanchez's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

4. Plaintiff Robert O'Brien's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

5. Plaintiff Emily Driscoll's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

6. Plaintiff Alison Kenady's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

7. Plaintiff Tenisha Martin's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

8. Plaintiff Gabriela Molina's Responses to LVMPD's First Set of Interrogatories dated May 13, 2021;

1 9. Plaintiff Lance Downes-Covington's Responses to LVMPD's First Set of
2 Requests for Production of Documents dated May 13, 2021;

3 10. Plaintiff Soldadera Sanchez's Responses to LVMPD's First Set of Requests
4 for Production of Documents dated May 13, 2021;

5 11. Plaintiff Robert O'Brien's Responses to LVMPD's First Set of Requests for
6 Production of Documents dated May 13, 2021;

7 12. Plaintiff Emily Driscoll's Responses to LVMPD's First Set of Requests for
8 Production of Documents dated May 13, 2021;

9 13. Plaintiff Alison Kenady's Responses to LVMPD's First Set of Requests for
10 Production of Documents dated May 13, 2021;

11 14. Plaintiff Tenisha Martin's Responses to LVMPD's First Set of Requests for
12 Production of Documents dated May 13, 2021;

13 15. Plaintiff Gabriela Molina's Responses to LVMPD's First Set of Requests
14 for Production of Documents dated May 13, 2021;

15 16. Plaintiff Lance Downes-Covington's First Set of Interrogatories to LVMPD
16 dated June 2, 2021;

17 17. Plaintiffs' First Set of Requests for Production of Documents to LVMPD
18 dated June 2, 2021;

19 18. Plaintiff Emily Driscoll's First Set of Interrogatories to LVMPD dated July
20 1, 2021;

21 19. Plaintiffs' First Supplement to Initial Disclosure of Witnesses and
22 Documents Pursuant to FRCP 26.1(a)(1) dated July 1, 2021;

23 20. Plaintiffs' Second Supplement to Initial Disclosure of Witnesses and
24 Documents Pursuant to FRCP 26.1(a)(1) dated July 8, 2021;

25 21. Plaintiffs' Third Supplement to Initial Disclosure of Witnesses and
26 Documents Pursuant to FRCP 26.1(a)(1) dated July 12, 2021;

27 22. Plaintiff Soldadera Sanchez's Supplemental Responses to LVMPD's First
28 Set of Interrogatories dated July 8, 2021;

23. Plaintiff Robert O'Brien's Supplemental Responses to LVMPD's First Set of Interrogatories dated July 8, 2021;

24. Plaintiff Emily Driscoll's Supplemental Responses to LVMPD's First Set of Interrogatories dated July 8, 2021;

25. Plaintiff Alison Kenady's Supplemental Responses to LVMPD's First Set of Interrogatories dated July 8, 2021;

26. Plaintiff Tenisha Martin's Supplemental Responses to LVMPD's First Set of Interrogatories dated June 8, 2021;

27. Plaintiff Soldadera Sanchez's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

28. Plaintiff Robert O'Brien's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

29. Plaintiff Emily Driscoll's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

30. Plaintiff Alison Kenady's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

31. Plaintiff Tenisha Martin's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

32. Plaintiff Gabriela Molina's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 8, 2021;

33. Plaintiff Gabriela Molina's Second Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 12, 2021;

34. Plaintiff Lance Downes-Covington's Supplemental Responses to LVMPD's First Set of Requests for Production of Documents dated July 12, 2021;

35. Plaintiff Gabriela Molina's Supplemental Responses to LVMPD's First Set of Interrogatories dated July 12, 2021;

36. Plaintiff Lance Downes-Covington's Supplemental Responses to LVMPD's First Set of Interrogatories dated July 12, 2021;

1 37. Plaintiff Tenisha Martin's First Set of Interrogatories to LVMPD dated July
2 13, 2021;

3 38. Plaintiffs' Second Set of Requests for Production of Documents to LVMPD
4 dated July 13, 2021;

5 39. Plaintiff Tenisha Martin's Second Set of Interrogatories to LVMPD dated
6 July 14, 2021;

7 40. Plaintiffs' Third Set of Requests for Production of Documents to LVMPD
8 dated July 14, 2021;

9 41. **Plaintiffs' Fourth Supplement to Initial Disclosure of Witnesses and**
10 **Documents Pursuant to FRCP 26.1(a)(1) dated September 15, 2021;**

11 42. **Plaintiff Tenisha Martin's Third Set of Interrogatories to LVMPD**
12 **dated September 15, 2021;**

13 43. **Plaintiffs' Fourth Set of Requests for Production of Documents to**
14 **LVMPD dated September 15, 2021; and**

15 44. **Plaintiffs' First Set of Requests for Admission to LVMPD dated**
16 **September 15, 2021.**

17 **B. DEFENDANTS' DISCOVERY.**

18 1. LVMPD Defendants' Initial Disclosure of Witnesses and Documents
19 Pursuant to FRCP 26.1(a)(1) dated January 20, 2021;

20 2. LVMPD's First Set of Interrogatories to Plaintiff Lance Downes-Covington
21 dated March 12, 2021;

22 3. LVMPD's First Set of Interrogatories to Plaintiff Soldadera Sanchez dated
23 March 12, 2021;

24 4. LVMPD's First Set of Interrogatories to Plaintiff Robert O'Brien dated
25 March 12, 2021;

26 5. LVMPD's First Set of Interrogatories to Plaintiff Emily Driscoll dated
27 March 12, 2021;

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1 6. LVMPD's First Set of Interrogatories to Plaintiff Alison Kenady dated
2 March 12, 2021;

3 7. LVMPD's First Set of Interrogatories to Plaintiff Tenisha Martin dated
4 March 12, 2021;

5 8. LVMPD's First Set of Interrogatories to Plaintiff Gabriela Molina dated
6 March 12, 2021;

7 9. LVMPD's First Set of Request for Production of Documents to Plaintiff
8 Lance Downes-Covington dated March 12, 2021;

9 10. LVMPD's First Set of Request for Production of Documents to Plaintiff
10 Soldadera Sanchez dated March 12, 2021;

11 11. LVMPD's First Set of Request for Production of Documents to Plaintiff
12 Robert O'Brien dated March 12, 2021;

13 12. LVMPD's First Set of Request for Production of Documents to Plaintiff
14 Emily Driscoll dated March 12, 2021;

15 13. LVMPD's First Set of Request for Production of Documents to Plaintiff
16 Alison Kenady dated March 12, 2021;

17 14. LVMPD's First Set of Request for Production of Documents to Plaintiff
18 Tenisha Martin dated March 12, 2021;

19 15. LVMPD's First Set of Request for Production of Documents to Plaintiff
20 Gabriela Molina dated March 12, 2021;

21 16. LVMPD Defendants' First Supplement to Initial Disclosures of Witnesses
22 and Documents Pursuant to FRCP 26.1(a)(1) dated July 20, 2021;

23 17. LVMPD's Answers to Plaintiff Lance Downes-Covington's First Set of
24 Interrogatories dated July 20, 2021;

25 18. LVMPD's Responses to Plaintiffs' First Set of Requests for Production of
26 Documents dated July 20, 2021;

27 19. LVMPD's Responses to Plaintiff Emily Driscoll's First Set of
28 Interrogatories dated August 3, 2021;

1 20. LVMPD's Supplemental Answers to Plaintiff Lance Downes-
2 Covington's First Set of Interrogatories dated August 3, 2021;

3 21. LVMPD's Supplemental Responses to Plaintiffs' First Set of Requests
4 for Production of Documents dated August 3, 2021;

5 22. LVMPD Defendants' Second Supplement to Initial Disclosures of
6 Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated August 4, 2021;

7 23. LVMPD's Supplemental Answers to Plaintiff Lance Downes-
8 Covington's First Set of Interrogatories dated August 9, 2021;

9 24. LVMPD Defendants' Third Supplement to Initial Disclosures of
10 Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated August 16, 2021;

11 25. LVMPD's Responses to Plaintiff Tenisha Martin's First Set of
12 Interrogatories dated August 16, 2021;

13 26. LVMPD's Responses to Plaintiff Tenisha Martin's Second Set of
14 Interrogatories dated August 16, 2021;

15 27. LVMPD's Responses to Plaintiffs' Third Set of Requests for
16 Production of Documents dated August 16, 2021;

17 28. LVMPD's Responses to Plaintiffs' Second Set of Requests for
18 Production of Documents dated August 30, 2021;

19 29. LVMPD's Responses to Plaintiff Tenisha Martin's Second Set of
20 Interrogatories dated August 30, 2021;

21 30. LVMPD Defendants' Fourth Supplement to Initial Disclosures of
22 Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated August 30, 2021;

23 31. LVMPD Defendants' Privilege Log dated August 30, 2021;

24 32. LVMPD's Amended Responses to Plaintiffs' Third Set of Requests for
25 Production of Documents dated September 13, 2021;

26 33. LVMPD's Amended Responses to Plaintiffs' Second Set of Requests for
27 Production of Documents dated September 13, 2021;
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1 **34. LVMPD's Amended Responses to Plaintiff Tenisha Martin's Second**
2 **Set of Interrogatories dated September 13, 2021;**

3 **35. LVMPD's Amended Responses to Plaintiff Emily Driscoll's First Set of**
4 **Interrogatories dated September 13, 2021;**

5 **36. Lt. McKenzie's First Set of Interrogatories to Plaintiff Lance Downes-**
6 **Covington dated September 22, 2021;**

7 **37. Lt. McKenzie's First Set of Interrogatories to Plaintiff Soldadera**
8 **Sanchez dated September 22, 2021;**

9 **38. Lt. McKenzie's First Set of Interrogatories to Plaintiff Robert O'Brien**
10 **dated September 22, 2021;**

11 **39. Lt. McKenzie's First Set of Interrogatories to Plaintiff Emily Driscoll**
12 **dated September 22, 2021;**

13 **40. Lt. McKenzie's First Set of Interrogatories to Plaintiff Alison Kenady**
14 **dated September 22, 2021;**

15 **41. Lt. McKenzie's First Set of Interrogatories to Plaintiff Tenisha Martin**
16 **dated September 22, 2021;**

17 **42. Lt. McKenzie's First Set of Interrogatories to Plaintiff Gabriela Molina**
18 **dated September 22, 2021;**

19 **43. LVMPD's First Set of Requests for Admission to Plaintiff Lance**
20 **Downes-Covington dated September 22, 2021;**

21 **44. LVMPD's First Set of Requests for Admission to Plaintiff Soldadera**
22 **Sanchez dated September 22, 2021;**

23 **45. LVMPD's First Set of Requests for Admission to Plaintiff Robert**
24 **O'Brien dated September 22, 2021;**

25 **46. LVMPD's First Set of Requests for Admission to Plaintiff Emily**
26 **Driscoll dated September 22, 2021;**

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47. LVMPD's First Set of Requests for Admission to Plaintiff Alison Kenady dated September 22, 2021;

48. LVMPD's First Set of Requests for Admission to Plaintiff Tenisha Martin dated September 22, 2021;

49. LVMPD's First Set of Requests for Admission to Plaintiff Gabriela Molina dated September 22, 2021;

50. LVMPD Defendants' Fifth Supplement to Initial Disclosures of Witnesses and Documents Pursuant to FRCP 26.1(a)(1) dated October 11, 2021;

51. LVMPD's Responses to Plaintiffs' Fourth Set of Requests for Production of Documents dated October 18, 2021;

52. LVMPD's Responses to Plaintiff Tenisha Martin's Third Set of Interrogatories dated October 18, 2021; and

53. LVMPD's Responses to Plaintiffs' First Set of Requests Admission dated October 20, 2021.

II. DISCOVERY THAT REMAINS TO BE COMPLETED.

The Parties are actively conducting discovery. Plaintiffs have numerous discovery responses currently due on November 8, 2021. The Parties are working on scheduling depositions. Plaintiffs need time to review a voluminous number of body-worn camera (BWC) footage: on October 11, 2021, Defendants just produced 624 videos, including many that contain more than 30 minutes of footage. For that reason and the reasons explained below, the Parties will need additional time to propound written discovery, respond to written discovery and conduct depositions.

III. SPECIFIC DESCRIPTION OF WHY AN EXTENSION IS NECESSARY.

Pursuant to Local Rule 26-3, the Parties submit that good causes exists for the extension requested. This is the first request for an extension of discovery deadlines in this matter. The Parties acknowledge that, pursuant to Local Rule 26-3, a stipulation to extend a deadline set forth in a discovery plan must be submitted to the Court no later than 21 days before the expiration of the subject deadline, and that a request made within 21 days must be

1 supported by a showing of good cause. While the majority of the deadlines the Parties seek
2 to extend are outside of the 21-day window, the deadline for initial expert disclosures is
3 November 16, 2021. Thus, the Parties must establish that good cause exists to extend this
4 deadline.

5 The Parties have been diligently conducting discovery and continue to conduct
6 discovery. However, given the number of plaintiffs, the number of incidents at issue, and
7 the number of claims involved in this matter, the Parties require additional time to complete
8 necessary discovery in this matter. The Parties have successfully collaborated to establish a
9 potential schedule for conducting the deposition of the Plaintiffs and are continuing to work
10 on scheduling the Defendants. Additionally, Plaintiffs have a pending Motion to Amend
11 their Complaint (ECF No. 48) which would include additional Defendants to be added into
12 this litigation. Further, a major extenuating circumstance is the departure of one of the
13 primary Plaintiffs' attorneys (*see* ECF No. 49). Further, Defendants have recently produced
14 more than 1,300 body-worn camera footage videos that Plaintiffs need to be reviewed.
15 Finally, the Parties together request this in good faith and to further the resolution of this
16 case on the merits, and not for any purpose of delay

17 The Parties thus respectfully request extension of time to extend the discovery in
18 this matter to enable to them to conduct necessary discovery in this matter and so that this
19 matter is fairly resolved on the merits. Assuming that the Court determines that the "good
20 cause" standard applies to all discovery deadlines sought to be extended by this Stipulation,
21 this Court has noted that "Good cause to extend a discovery deadline exists 'if it cannot
22 reasonably be met despite the diligence of the party seeking the extension.'" *Derosa v. Blood*
23 *Sys., Inc.*, No. 2:13-cv-0137-JCM-NJK, 2013 U.S. Dist. LEXIS 108235, 2013 WL 3975764,
24 at 1 (D. Nev. Aug. 1, 2013) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
25 609 (9th Cir. 1992)); *see also* Fed. R. Civ. P. 1 (providing that the Rules of Civil Procedure
26 "should be construed, administered, and employed by the court and the parties to secure the
27 just, speedy, and inexpensive determination of every action and proceeding"). As the
28 procedural history of this case illustrates, the Parties have been diligent in litigating this

1 matter. The Parties are continuing to engage in written discovery and have begun
2 coordinating the taking of depositions as discussed below. Additionally, counsel for the
3 Parties in this matter are litigating several other unrelated matters against each other which
4 are well-advanced and have competing demands, and while competing demands of litigation
5 are merely one of many reasons for the instant request, it should be noted that the other
6 litigation between the same counsel involving similar issues can only benefit from expanded
7 discovery so that in other litigation, similar requests can be expedited because they may
8 have been done at least in part in this case; in this case, it would be a matter of a universal
9 benefit to the ends of justice and future efficiencies.

10 As noted, the good cause analysis is proper for the majority of the dates the Parties
11 seek to extend, however, the request is being made outside the 21-day window as it relates
12 to Initial Expert disclosures, to which the “excusable neglect” analysis is the appropriate
13 standard. The parties meet that standard as well.

14 As this Court has explained in the past, there are at least four factors in determining
15 whether neglect is excusable: “(1) the danger of prejudice to the opposing party; (2) the
16 length of the delay and its potential impact on the proceedings; (3) the reason for the delay;
17 and (4) whether the movant acted in good faith.” *Erection Co. v. Archer W. Contractors,*
18 *LLC*, No. 2:12-cv-0612-MMD-NJK, 2013 U.S. Dist. LEXIS 159029, at *7 (D. Nev. Nov.
19 6, 2013) (citing *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 395
20 (1993)). The determination of whether neglect is excusable is ultimately an equitable one,
21 taking account of all relevant circumstances surrounding the party’s omission. *Pioneer*, 507
22 U.S. at 395.

23 In the instant matter, the first factor regarding prejudice to the opposing party is
24 not relevant, as the Parties have agreed to stipulate to an extension of time. The remaining
25 factors weigh in favor of a finding of excusable neglect. As referenced above, the Parties
26 submit this as a joint stipulation. Second, the length of the delay is modest in which to
27 complete discovery which is moving forward at a steady pace. Inasmuch as there are
28 complex issues being refined through the existing discovery to date, as well as the ongoing

1 discovery, it is submitted that in the interest of justice, the evaluation of an appropriate
 2 expert requires more thoughtfulness and the anticipated time sought by way of this
 3 stipulation. To this extent, depositions of the named parties in this case have been noticed
 4 and extension and potentially complex production requests have been made. The parties are
 5 also endeavoring upon meet and confer conferences to facilitate discovery in the most
 6 efficient manner and where possible without need for court intervention – however this does
 7 take time and carefulness. Third, beyond what has already been represented, a major
 8 extenuating circumstance is the departure of one of the primary Plaintiff’s attorneys and the
 9 entrance of the undersigned as new counsel in the litigation. Candidly, in a matter such as
 10 the present, if an expert witness would benefit the litigation and what sort of expert at that
 11 is a complex question that will likely become more apparent given the completion of the
 12 pending discovery and so additional time is warrant if only for that task, though the entirety
 13 of the litigation, including potential dispositive motions, will be facilitated by granting the
 14 request. Finally, the parties together request this in good faith and not for any purpose of
 15 delay. Indeed, the incidents at issue regarding the interaction between citizens and law
 16 enforcement during public protests are exactly the type of cases which benefit from robust,
 17 full and thoughtful discovery prior to trial and that is the singular goal of this request.

18 Moreover, as has been widely reported in both local and national news, Clark
 19 County has been experiencing a steep increase in COVID-19 infections due to the spread of
 20 the Delta variant, which has necessitated counsel to resume social distancing practices such
 21 as limiting in-person meetings, limiting travel, and practices designed to prevent further
 22 spread of the virus.

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For all these reasons, the Parties respectfully request the Court grant their stipulation to extend discovery.

IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DEADLINES

Deadline	Current Deadline	Proposed New Deadline
Initial Expert Disclosures	November 16, 2021	February 14, 2022
Rebuttal Expert Disclosures	December 16, 2021	March 16, 2022
Discovery Cut-Off	January 17, 2022	April 18, 2022
Dispositive Motions	February 16, 2022	May 18, 2022
Joint Pretrial Order	March 18, 2022	June 17, 2022 (If dispositive motions are filed, the deadline for shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the Court.)

Based on the foregoing stipulation and proposed deadlines plan, the Parties request that the Discovery Plan and Scheduling Order deadlines be extended an additional ninety (90) days so that the parties may conduct depositions.

IT IS SO STIPULATED.

DATED this 1st day of November, 2021.

DATED this 1st day of November, 2021.

MCLETCHE LAW

MARQUIS AURBACH COFFING

By: /s/ Margaret A. McLetchie

By: /s/ Jackie V. Nichols, Esq.

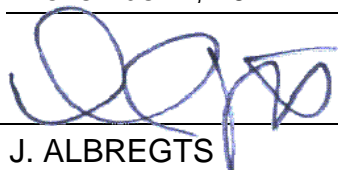
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ORDER

IT IS SO ORDERED.

DATED: November 2, 2021



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE